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HIGH COURT OF CHHATTISGARH: BILASPUR

WRIT PETITION (S) NO. 2338 OF 2007

PETITIONERS
Plaintiffs

1) Narayan, S/o. Atma Ram aged about 32 years, Caste - Agharia, R/o. Village Tapranga, Tahasil Gharghoda, District Raigarh, CG.

2) Jeevan, S/o. Atma Ram, aged about 31 years, Caste - Agharia, R/o. Village Tapranga, Dist. Raigarh, Cg.

3) Roop Kunwar, S/o. Atma Ram, aged about 42 years, Caste - Agharia, R/o. Muralipali, Tahasil & District Raigarh, CG.

4) Set Kunwar, S/o. Atma Ram, aged about 37 years, Caste - Agharia, R/o. Village Tilaipara, Tahasil Gharghoda, Dist. Raigarh, CG.

Versus

RESPONDENTS
Defendants

1) Deen Bandhu, S/o. Atma Ram, aged about 40 years, R/o. Village Tapranga, Tahasil Gharghoda, District Raigarh.

2) Zindal Steel and Power Limited, r registered office Hinsar 'Hariyana' through General Manager Shri Rakesh Zindal, S/o. Shri Anand Swaroop Zindal, R./o. Patrapali, Raigarh, Tahasil & District Raigarh, CG.

3) State of Chhattisgarh, through Collector, Raipur, CG

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT / WRITS, ORDER / ORDERS, DIRECTION/ DIRECTIONS.

SB: Hon'ble Shri Justice Satish K. Agnihotri

PRESENT:

Shri M.K, Sinha, counsel for the petitioners.
Ku. Dipali Pandey, Panel Lawyer for the State.

ORAL ORDER
(Passed on 16th April 2007)

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1. By this petition filed under Article 227 of the Constitution of India, the petitioners impugn the order dated 19-02-2007 (Annexure P/4) passed by the Additional District Judge, Raigarh, in Civil Suit No. 29-A/2005.

2. The indisputable facts are that the petitioners filed a suit on 2-5-2005 for declaration of possession and for declaration of registered agreements dated 9-6-99, 1-5-99 and 10-5-2001 as void. In the said suit, the petitioners filed an application under Order 6, Rule 17 of the Code of Civil Procedure for incorporating para 8-A immediately after para 8 and amendment in para 10 in the plaint on 11-9-2006.

3. Additional District Judge, Raigarh, after hearing learned counsel for the petitioners as well as learned counsel for the respondents and having perused the record held that the petitioners have sought for deletion of the date of registered sale deed dated 22-9-2001 It appears that the said typographical mistake was allowed to be amended accordingly. Incorporation of para 8-A stating together new facts would change the nature of the suit which was not permitted by the Court below. The trial has already commenced. The petitioners have failed to prove that in spite of due diligence, petitioners could not raise the matter and did not make efforts to make the necessary amendments. Thus, the typographical error in the registered sale deed was ordered to be amended and the application for incorporation of para 8-A and amendment in para 10 was declined.

4. Being aggrieved, the petitioners have filed this petition under Article 227 of the Constitution, on the ground that the learned Additional District Judge, ought to have allowed the amendment as the same was formal in nature.

5. I have heard learned counsel for the petitioners, perused the pleadings, documents and the impugned judgment appended thereto. I do not find any infirmity, illegality or jurisdictional error in the impugned judgment/order passed

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by the Court below. Thus, at this stage, as the trial is in the advanced stage, the petitioners are not entitled to seek any amendment of this nature which, according to the petitioners themselves, is formal in nature.

6. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

7. Applying the above settled principles of law to the facts of the present case, it does not warrant an interference with the decision passed by the Court below.

8. Thus, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju